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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Michael D. Escobar,  
Plaintiff,

v.

Irene Barron Irby, et al.,  
Defendants.

No. CV-23-01740-PHX-JAT (DFM)

**ORDER**

On July 27, 2023, Plaintiff Michael D. Escobar, who is confined in a Maricopa County Jail, filed a Complaint in the Superior Court of Maricopa County, Arizona, against Irene Barron Irby, Sergeant Navarro, Officer Raymer, and Officer Bernardino. On August 22, 2023, Defendants Irby, Navarro, and Bernardino filed a Notice of Removal and removed the case to this Court. On August 28, 2023, Defendants filed a Motion for Extension of Time to File Responsive Pleading/Motion to Dismiss. In an October 23, 2023 Order, the Court determined removal was proper and dismissed the Complaint with leave to amend because it was not filed on a court-approved form. The Court gave Plaintiff 30 days to file an amended complaint using the court-approved form. The Court denied as moot Defendants' Motion for Extension of Time.

On November 2, 2023, Plaintiff filed his First Amended Complaint (Doc. 6). Plaintiff has also filed a Motion for Appointment of Counsel (Doc. 4). The Court will deny the Motion without prejudice and dismiss the First Amended Complaint with leave to amend.

## I. Statutory Screening of Prisoner Complaints

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or an officer or an employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff has raised claims that are legally frivolous or malicious, that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1)–(2).

A pleading must contain a “short and plain statement of the claim *showing* that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8 does not demand detailed factual allegations, “it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). “Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Id.*

“[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Id.* (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). A claim is plausible “when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* “Determining whether a complaint states a plausible claim for relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial experience and common sense.” *Id.* at 679. Thus, although a plaintiff’s specific factual allegations may be consistent with a constitutional claim, a court must assess whether there are other “more likely explanations” for a defendant’s conduct. *Id.* at 681.

But as the United States Court of Appeals for the Ninth Circuit has instructed, courts must “continue to construe *pro se* filings liberally.” *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010). A “complaint [filed by a *pro se* prisoner] ‘must be held to less stringent standards than formal pleadings drafted by lawyers.’” *Id.* (quoting *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam)).

If the Court determines that a pleading could be cured by the allegation of other

1 facts, a pro se litigant is entitled to an opportunity to amend a complaint before dismissal  
2 of the action. *See Lopez v. Smith*, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (en banc).  
3 Plaintiff's First Amended Complaint will be dismissed for failure to state a claim, but  
4 because it may possibly be amended to state a claim, the Court will dismiss it with leave  
5 to amend.

## 6 **II. First Amended Complaint**

7 In his two-count First Amended Complaint, Plaintiff sues Lower Buckeye Jail  
8 Captain Irene Barron Irby, Sergeant Navarro, and Officers Raymer and Bernadino.  
9 Plaintiff asserts claims of excessive force and a threat to his safety. He seeks monetary  
10 relief.

11 Plaintiff designates Count One as an Eighth Amendment excessive force claim.  
12 Plaintiff alleges that on February 16, 2023, while Maricopa County Sheriff's Office  
13 officers were escorting him to his cell, a "use of force and as[s]ist to the ground was  
14 ne[cessary]." Plaintiff asserts that two officers, each holding one of Plaintiff's arms,  
15 attempted to "slam [him] on the ground." Plaintiff claims that while he was on the ground,  
16 Defendant Raymer repeatedly punched him in the face and ribs, although Plaintiff was  
17 already restrained with both hands behind his back. Plaintiff contends that "all [three]  
18 officers played a role in this altercation" because Defendants Raymer and Bernadino  
19 assaulted him, and Defendant Navarro "watched [and] did not attempt to stop" the assault.  
20 As his injury, Plaintiff alleges that he suffered a "busted nose with blood" and a swollen  
21 black eye.

22 Plaintiff designates Count Two as a Fourteenth Amendment equal protection claim.  
23 Plaintiff alleges that MCSO officers failed to keep him safe. Plaintiff asserts that  
24 Defendants Raymer and Bernadino "both intentionally assaulted [him]" and "physically  
25 harmed [his] well[-]being." Plaintiff claims Defendant Navarro failed to keep Plaintiff safe  
26 and "condone[d] this type of behavior with his officers."

## 27 **III. Failure to State a Claim**

28 To prevail in a § 1983 claim, a plaintiff must show that (1) acts by the defendants

(2) under color of state law (3) deprived him of federal rights, privileges or immunities and (4) caused him damage. *Thornton v. City of St. Helens*, 425 F.3d 1158, 1163-64 (9th Cir. 2005) (quoting *Shoshone-Bannock Tribes v. Idaho Fish & Game Comm’n*, 42 F.3d 1278, 1284 (9th Cir. 1994)). In addition, a plaintiff must allege that he suffered a specific injury as a result of the conduct of a particular defendant and he must allege an affirmative link between the injury and the conduct of that defendant. *Rizzo v. Goode*, 423 U.S. 362, 371-72, 377 (1976).

#### **A. Defendant Irby**

There is no respondeat superior liability under § 1983, and therefore, a defendant’s position as the supervisor of persons who allegedly violated Plaintiff’s constitutional rights does not impose liability. *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658 (1978); *Hamilton v. Endell*, 981 F.2d 1062, 1067 (9th Cir. 1992); *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989). “Because vicarious liability is inapplicable to *Bivens* and § 1983 suits, a plaintiff must plead that each Government-official defendant, through the official’s own individual actions, has violated the Constitution.” *Iqbal*, 556 U.S. at 676.

Plaintiff has not alleged that Defendant Irby personally participated in a deprivation of Plaintiff’s constitutional rights, was aware of a deprivation and failed to act, or formed policies that resulted in Plaintiff’s injuries. Plaintiff makes no allegations at all against Defendant Irby. Thus, the Court will dismiss without prejudice Defendant Irby.

#### **B. Excessive Force**

The Fourteenth Amendment’s Due Process Clause, and not the Eighth Amendment, applies to the use of excessive force against pretrial detainees that amounts to punishment. *Kingsley v. Hendrickson*, 576 U.S. 389, 397 (2015); *Gibson v. County of Washoe*, 290 F.3d 1175, 1197 (9th Cir. 2002). Force is excessive if the officers’ use of force was “objectively unreasonable” in light of the facts and circumstances confronting them, without regard to their mental state. *Kingsley*, 576 U.S. at 396; *see also Graham v. Connor*, 490 U.S. 386, 397 (1989) (applying an objectively unreasonable standard to a Fourth Amendment excessive force claim arising during an investigatory stop). In determining whether the use

1 of force was reasonable, the Court should consider factors including, but not limited to  
 2 the relationship between the need for the use of force and the amount of force  
 3 used; the extent of the plaintiff's injury; any effort made by the officer to  
 4 temper or to limit the amount of force; the severity of the security problem  
 5 at issue; the threat reasonably perceived by the officer; and whether the  
 plaintiff was actively resisting.

6 *Kingsley*, 576 U.S. at 397.

7 Because officers are often forced to make split-second decisions in rapidly evolving  
 8 situations, the reasonableness of a particular use of force must be made "from the  
 9 perspective of a reasonable officer on the scene, including what the officer knew at the  
 10 time, not with the 20/20 vision of hindsight." *Id.* at 2473-74 (citing *Graham*, 490 U.S. at  
 11 396). Further, "[n]ot every push or shove, even if it may later seem unnecessary in the  
 12 peace of a judge's chambers," violates the Constitution. *Graham*, 490 U.S. at 396 (citation  
 13 omitted).

14 Plaintiff's allegations are too vague and conclusory to state an excessive force claim.  
 15 Plaintiff provides no factual detail concerning what precipitated the use of force. Thus, the  
 16 Court cannot determine whether the force used was reasonable. As presented, Plaintiff  
 17 fails to state an excessive force claim against Defendants Raymer and Bernadino, and these  
 18 Defendants will be dismissed.

### 19 **C. Failure to Intervene**

20 In Count Three, Plaintiff alleges that Defendant Navarro failed to intervene while  
 21 Defendants Raymer and Bernadino assaulted him. The failure to intervene can support an  
 22 excessive-use-of-force claim where a bystander-officer has a realistic opportunity to  
 23 intervene but fails to do so. *Lolli v. Cnty. Of Orange*, 351 F.3d 410, 418 (9th Cir. 2003);  
 24 *Cunningham v. Gates*, 229 F.3d 1271, 1289 (9th Cir. 2000) (police officers can be liable  
 25 for failing to intercede "when their fellow officers violate the constitutional rights of a  
 26 suspect or other citizen," but only if they had an opportunity to intercede) (internal citation  
 27 and quotation omitted); *cf. Garlick v. Kern*, 167 F. Supp. 3d 1117, 1161 (E.D. Cal. 2016)  
 28 ("If an officer fails to intervene when fellow officers use excessive force, despite not acting

1 to apply the force, he would be responsible for violating the Fourth Amendment” if the  
 2 officer had a “realistic opportunity to intercede”) (internal citations omitted). Plaintiff has  
 3 not alleged sufficient facts to support a conclusion that Defendant Navarro had a reasonable  
 4 opportunity to intervene and failed to do so. Further, because Plaintiff has failed to  
 5 demonstrate that the other officers used excessive force against him, he has failed to  
 6 demonstrate that Defendant Navarro had a duty to intervene. Thus, Plaintiff fails to state  
 7 a claim against Defendant Navarro, and this Defendant will be dismissed.

#### 8 **IV. Leave to Amend**

9 For the foregoing reasons, the Court will dismiss Plaintiff’s First Amended  
 10 Complaint for failure to state a claim upon which relief may be granted. Within 30 days,  
 11 Plaintiff may submit a second amended complaint to cure the deficiencies outlined above.  
 12 The Clerk of Court will mail Plaintiff a court-approved form to use for filing a second  
 13 amended complaint. If Plaintiff fails to use the court-approved form, the Court may strike  
 14 the second amended complaint and dismiss this action without further notice to Plaintiff.

15 Plaintiff must clearly designate on the face of the document that it is the “Second  
 16 Amended Complaint.” The second amended complaint must be retyped or rewritten in its  
 17 entirety on the court-approved form and may not incorporate any part of the original  
 18 Complaint or First Amended Complaint by reference. Plaintiff may include only one claim  
 19 per count.

20 A second amended complaint supersedes the original Complaint and First Amended  
 21 Complaint. *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992); *Hal Roach Studios v.*  
 22 *Richard Feiner & Co.*, 896 F.2d 1542, 1546 (9th Cir. 1990). After amendment, the Court  
 23 will treat the original Complaint and First Amended Complaint as nonexistent. *Ferdik*,  
 24 963 F.2d at 1262. Any cause of action that was raised in the original Complaint or First  
 25 Amended Complaint and that was voluntarily dismissed or was dismissed without  
 26 prejudice is waived if it is not alleged in a second amended complaint. *Lacey v. Maricopa*  
 27 *County*, 693 F.3d 896, 928 (9th Cir. 2012) (en banc).

28 If Plaintiff files an amended complaint, Plaintiff must write short, plain statements

1 telling the Court: (1) the constitutional right Plaintiff believes was violated; (2) the name  
 2 of the Defendant who violated the right; (3) exactly what that Defendant did or failed to  
 3 do; (4) how the action or inaction of that Defendant is connected to the violation of  
 4 Plaintiff's constitutional right; and (5) what specific injury Plaintiff suffered because of  
 5 that Defendant's conduct. *See Rizzo*, 423 U.S. at 371-72, 377.

6 Plaintiff must repeat this process for each person he names as a Defendant. If  
 7 Plaintiff fails to affirmatively link the conduct of each named Defendant with the specific  
 8 injury suffered by Plaintiff, the allegations against that Defendant will be dismissed for  
 9 failure to state a claim. **Conclusory allegations that a Defendant or group of**  
 10 **Defendants has violated a constitutional right are not acceptable and will be**  
 11 **dismissed.**

## 12 **V. Motion for Appointment of Counsel**

13 There is no constitutional right to the appointment of counsel in a civil case. *See*  
 14 *Ivey v. Bd. of Regents*, 673 F.2d 266, 269 (9th Cir. 1982). In proceedings in forma pauperis,  
 15 the court may request an attorney to represent any person unable to afford one. 28 U.S.C.  
 16 § 1915(e)(1). Appointment of counsel under 28 U.S.C. § 1915(e)(1) is required only when  
 17 "exceptional circumstances" are present. *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir.  
 18 1991). A determination with respect to exceptional circumstances requires an evaluation  
 19 of the likelihood of success on the merits as well as the ability of Plaintiff to articulate his  
 20 claims pro se in light of the complexity of the legal issue involved. *Id.* "Neither of these  
 21 factors is dispositive and both must be viewed together before reaching a decision." *Id.*  
 22 (quoting *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986)).

23 Having considered both elements, it does not appear at this time that exceptional  
 24 circumstances are present that would require the appointment of counsel in this case.  
 25 Plaintiff is in no different position than many pro se prisoner litigants. Thus, the Court will  
 26 deny without prejudice Plaintiff's Motion for Appointment of Counsel.

27 . . . .

28 . . . .



1 **VI. Warnings**

2 **A. Address Changes**

3 Plaintiff must file and serve a notice of a change of address in accordance with Rule  
4 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other  
5 relief with a notice of change of address. Failure to comply may result in dismissal of this  
6 action.

7 **B. Possible Dismissal**

8 If Plaintiff fails to timely comply with every provision of this Order, including these  
9 warnings, the Court may dismiss this action without further notice. *See Ferdik*, 963 F.2d  
10 at 1260-61 (a district court may dismiss an action for failure to comply with any order of  
11 the Court).

12 **IT IS ORDERED:**

13 (1) Plaintiff's Motion for Appointment of Counsel (Doc. 4) is **denied without**  
14 **prejudice.**

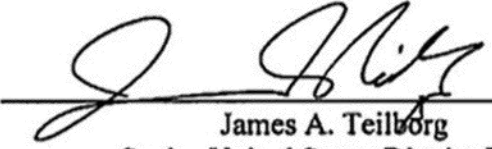
15 (2) The First Amended Complaint (Doc. 6) is **dismissed** for failure to state a  
16 claim. Plaintiff has **30 days** from the date this Order is filed to file a second amended  
17 complaint in compliance with this Order.

18 (3) If Plaintiff fails to file a second amended complaint within 30 days, the Clerk  
19 of Court must, without further notice, enter a judgment of dismissal of this action without  
20 prejudice and deny any pending unrelated motions as moot.

21 (4) The Clerk of Court must mail Plaintiff a court-approved form for filing a  
22 civil rights complaint by a prisoner.

23 Dated this 17th day of November, 2023.

24  
25  
26  
27  
28



James A. Teilborg  
Senior United States District Judge



**Instructions for a Prisoner Filing a Civil Rights Complaint  
in the United States District Court for the District of Arizona**

1. Who May Use This Form. The civil rights complaint form is designed to help incarcerated persons prepare a complaint seeking relief for a violation of their federal civil rights. These complaints typically concern, but are not limited to, conditions of confinement. **This form should not be used to challenge your conviction or sentence.** If you want to challenge a state conviction or sentence, you should file a petition under 28 U.S.C. § 2254 for a writ of habeas corpus by a person in state custody. If you want to challenge a federal conviction or sentence, you should file a motion under 28 U.S.C. § 2255 to vacate sentence in the federal court that entered the judgment.
2. The Form. **Local Rule of Civil Procedure (LRCiv) 3.4 provides that complaints by incarcerated persons must be filed on the court-approved form.** The form must be typed or neatly handwritten. The form must be completely filled in to the extent applicable. All questions must be answered clearly and concisely in the appropriate space on the form. If needed, you may attach additional pages, **but no more than fifteen additional pages**, of standard letter-sized paper. You must identify which part of the complaint is being continued and number all pages. If you do not fill out the form properly, you will be asked to submit additional or corrected information, which may delay the processing of your action. You do not need to cite law.
3. Your Signature. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
4. The Filing and Administrative Fees. The total fees for this action are \$402.00 (\$350.00 filing fee plus \$52.00 administrative fee). If you are unable to immediately pay the fees, you may request leave to proceed in forma pauperis. Please review the “Information for Prisoners Seeking Leave to Proceed with a (Non-Habeas) Civil Action in Federal Court In Forma Pauperis Pursuant to 28 U.S.C. § 1915” for additional instructions.
5. Original and Judge’s Copy. You must send an **original plus one copy** of your complaint and of any other documents submitted to the Court. You must send one additional copy to the Court if you wish to have a file-stamped copy of the document returned to you. All copies must be identical to the original. Copies may be legibly handwritten. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**
6. Where to File. You should file your complaint in the division **where you were confined when your rights were allegedly violated.** See LRCiv 5.1(a) and 77.1(a). If you were confined in Maricopa, Pinal, Yuma, La Paz, or Gila County, file in the Phoenix Division. If you were confined in Apache, Navajo, Coconino, Mohave, or Yavapai County, file in the Prescott Division. If you were confined in Pima, Cochise, Santa Cruz, Graham, or Greenlee County, file in the Tucson Division. **Mail the original and one copy of the complaint with the \$402 filing and administrative fees or the application to proceed in forma pauperis to:**

Phoenix & Prescott Divisions:  
U.S. District Court Clerk  
U.S. Courthouse, Suite 130  
401 West Washington Street, SPC 10  
Phoenix, Arizona 85003-2119

**OR**

Tucson Division:  
U.S. District Court Clerk  
U.S. Courthouse, Suite 1500  
405 West Congress Street  
Tucson, Arizona 85701-5010

7. Change of Address. You must immediately notify the Court and the defendants in writing of any change in your mailing address. **Failure to notify the Court of any change in your mailing address may result in the dismissal of your case.**

8. Certificate of Service. You must furnish the defendants with a copy of any document you submit to the Court (except the initial complaint and application to proceed in forma pauperis). Each original document (except the initial complaint and application to proceed in forma pauperis) must include a certificate of service on the last page of the document stating the date a copy of the document was mailed to the defendants and the address to which it was mailed. *See Fed. R. Civ. P. 5(a), (d).* Any document received by the Court that does not include a certificate of service may be stricken. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**

A certificate of service should be in the following form:

I hereby certify that a copy of the foregoing document was mailed  
this \_\_\_\_\_ (month, day, year) to:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Attorney for Defendant(s)

\_\_\_\_\_  
(Signature)

9. Amended Complaint. If you need to change any of the information in the initial complaint, you must file an amended complaint. The amended complaint must be written on the court-approved civil rights complaint form. You may file one amended complaint without leave (permission) of Court within 21 days after serving it or within 21 days after any defendant has filed an answer, whichever is earlier. *See Fed. R. Civ. P. 15(a).* Thereafter, you must file a motion for leave to amend and lodge (submit) a proposed amended complaint. LRCiv 15.1. In addition, an amended complaint may not incorporate by reference any part of your prior complaint. LRCiv 15.1(a)(2). **Any allegations or defendants not included in the amended complaint are considered dismissed.** All amended complaints are subject to screening under the Prison Litigation Reform Act; screening your amendment will take additional processing time.

10. Exhibits. You should not submit exhibits with the complaint or amended complaint. Instead, the relevant information should be paraphrased. You should keep the exhibits to use to support or oppose a motion to dismiss, a motion for summary judgment, or at trial.

11. Letters and Motions. It is generally inappropriate to write a letter to any judge or the staff of any judge. The only appropriate way to communicate with the Court is by filing a written pleading or motion.

12. Completing the Civil Rights Complaint Form.

**HEADING:**

1. Your Name. Print your name, prison or inmate number, and institutional mailing address on the lines provided.
2. Defendants. If there are **four or fewer** defendants, print the name of each. If you name **more than four** defendants, print the name of the first defendant on the first line, write the words “and others” on the second line, and attach an additional page listing the names of **all** of the defendants. Insert the additional page after page 1 and number it “1-A” at the bottom.
3. Jury Demand. If you want a jury trial, you must write “JURY TRIAL DEMANDED” in the space below “CIVIL RIGHTS COMPLAINT BY A PRISONER.” Failure to do so may result in the loss of the right to a jury trial. A jury trial is not available if you are seeking only injunctive relief.

**Part A. JURISDICTION:**

1. Nature of Suit. Mark whether you are filing the complaint pursuant to 42 U.S.C. § 1983 for state, county, or city defendants; “*Bivens v. Six Unknown Federal Narcotics Agents*” for federal defendants; or “other.” If you mark “other,” identify the source of that authority.
2. Location. Identify the institution and city where the alleged violation of your rights occurred.
3. Defendants. Print all of the requested information about each of the defendants in the spaces provided. If you are naming more than four defendants, you must provide the necessary information about each additional defendant on separate pages labeled “2-A,” “2-B,” etc., at the bottom. Insert the additional page(s) immediately behind page 2.

**Part B. PREVIOUS LAWSUITS:**

You must identify any other lawsuit you have filed in either state or federal court while you were a prisoner. Print all of the requested information about each lawsuit in the spaces provided. If you have filed more than three lawsuits, you must provide the necessary information about each additional lawsuit on a separate page. Label the page(s) as “2-A,” “2-B,” etc., at the bottom of the page and insert the additional page(s) immediately behind page 2.

**Part C. CAUSE OF ACTION:**

You must identify what rights each defendant violated. The form provides space to allege three separate counts (**one violation per count**). If you are alleging more than three counts, you must provide the necessary information about each additional count on a separate page. Number the additional pages “5-A,” “5-B,” etc., and insert them immediately behind page 5. Remember that you are limited to a total of fifteen additional pages.

1. Counts. You must identify which civil right was violated. **You may allege the violation of only one civil right per count.**
2. Issue Involved. Check the box that most closely identifies the issue involved in your claim. **You may check only one box per count.** If you check the box marked “Other,” you must identify the specific issue involved.
3. Supporting Facts. After you have identified which civil right was violated, you must state the supporting facts. Be as specific as possible. You must state what each individual defendant did to violate your rights. If there is more than one defendant, you must identify which defendant did what act. You also should state the date(s) on which the act(s) occurred, if possible.
4. Injury. State precisely how you were injured by the alleged violation of your rights.
5. Administrative Remedies. You must exhaust any available administrative remedies before you file a civil rights complaint. *See* 42 U.S.C. § 1997e. Consequently, you should disclose whether you have exhausted the inmate grievance procedures or administrative appeals for each count in your complaint. If the grievance procedures were not available for any of your counts, fully explain why on the lines provided.

**Part D. REQUEST FOR RELIEF:**

Print the relief you are seeking in the space provided.

**SIGNATURE:**

You must sign your name and print the date you signed the complaint. Failure to sign the complaint will delay the processing of your action. Unless you are an attorney, you may not bring an action on behalf of anyone but yourself.

**FINAL NOTE**

You should follow these instructions carefully. Failure to do so may result in your complaint being stricken or dismissed. All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number the pages.

\_\_\_\_\_  
Name and Prisoner/Booking Number

\_\_\_\_\_  
Place of Confinement

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State, Zip Code

**(Failure to notify the Court of your change of address may result in dismissal of this action.)**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

\_\_\_\_\_,  
(Full Name of Plaintiff)

Plaintiff,

v.

(1) \_\_\_\_\_,  
(Full Name of Defendant)

(2) \_\_\_\_\_,

(3) \_\_\_\_\_,

(4) \_\_\_\_\_,

Defendant(s).

☐ Check if there are additional Defendants and attach page 1-A listing them.

**CASE NO.** \_\_\_\_\_  
(To be supplied by the Clerk)

**CIVIL RIGHTS COMPLAINT  
BY A PRISONER**

- ☐ Original Complaint  
☐ First Amended Complaint  
☐ Second Amended Complaint

**A. JURISDICTION**

1. This Court has jurisdiction over this action pursuant to:

☐ 28 U.S.C. § 1343(a); 42 U.S.C. § 1983

☐ 28 U.S.C. § 1331; *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971).

☐ Other: \_\_\_\_\_.

2. Institution/city where violation occurred: \_\_\_\_\_.

## B. DEFENDANTS

1. Name of first Defendant: \_\_\_\_\_. The first Defendant is employed as: \_\_\_\_\_ at \_\_\_\_\_.  

(Position and Title) (Institution)
2. Name of second Defendant: \_\_\_\_\_. The second Defendant is employed as: \_\_\_\_\_ at \_\_\_\_\_.  

(Position and Title) (Institution)
3. Name of third Defendant: \_\_\_\_\_. The third Defendant is employed as: \_\_\_\_\_ at \_\_\_\_\_.  

(Position and Title) (Institution)
4. Name of fourth Defendant: \_\_\_\_\_. The fourth Defendant is employed as: \_\_\_\_\_ at \_\_\_\_\_.  

(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

## C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? ☐ Yes ☐ No
2. If yes, how many lawsuits have you filed? \_\_\_\_\_. Describe the previous lawsuits:
  - a. First prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_
  - b. Second prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_
  - c. Third prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.





## COUNT II

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_  
\_\_\_\_\_.

2. **Count II.** Identify the issue involved. Check **only one**. State additional issues in separate counts.
- |  |   |   |                                       |
|--|---|---|---------------------------------------|
| <input type="checkbox"/> Basic necessities             | <input type="checkbox"/> Mail             | <input type="checkbox"/> Access to the court  | <input type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings      | <input type="checkbox"/> Property         | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation  |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____         |                                       |

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count II. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on its right side, suggesting it's resting on a surface.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).
- 
- 
- 

5. **Administrative Remedies.**
- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No
- b. Did you submit a request for administrative relief on Count II? ☐ Yes ☐ No
- c. Did you appeal your request for relief on Count II to the highest level? ☐ Yes ☐ No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_

### COUNT III

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_.
  2. **Count III.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

|  |   |   |                                       |
|--|---|---|---------------------------------------|
| <input type="checkbox"/> Basic necessities             | <input type="checkbox"/> Mail             | <input type="checkbox"/> Access to the court  | <input type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings      | <input type="checkbox"/> Property         | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation  |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____.        |                                       |
  3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count III. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.  
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  4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.
  5. **Administrative Remedies.**
    - a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes    ☐ No
    - b. Did you submit a request for administrative relief on Count III? ☐ Yes    ☐ No
    - c. Did you appeal your request for relief on Count III to the highest level? ☐ Yes    ☐ No
    - d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_.

**If you assert more than three Counts, answer the questions listed above for each additional Count on a separate page.**

**E. REQUEST FOR RELIEF**

State the relief you are seeking:

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF PLAINTIFF

\_\_\_\_\_  
(Name and title of paralegal, legal assistant, or  
other person who helped prepare this complaint)

\_\_\_\_\_  
(Signature of attorney, if any)

\_\_\_\_\_  
(Attorney's address & telephone number)

**ADDITIONAL PAGES**

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.